

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DAISY N. RODRIGUEZ,

Plaintiff,

Civil No. 09-2882 (JNE/JJG)

v.

REPORT AND RECOMMENDATION

ALLINA HOSPITAL & CLINICS,
UNITED HOSPITAL, KLENOW, CHERYL,
M.D., and KAREN SMITH, Nurse,

Defendants.

Plaintiff initiated this action by filing a civil complaint, and an application to proceed in forma pauperis, (“IFP”), in the United States District Court for the Eastern District of North Carolina. She later filed an amended complaint, and the case was thereafter transferred to the District of Minnesota.

Shortly after the case was transferred to this District, the Court examined Plaintiff’s submissions and determined that her amended complaint was deficient for several reasons. Therefore, in an order dated October 23, 2009, (Docket No. 5), the Court informed Plaintiff that her IFP application would “not be granted at this time.” That order gave Plaintiff an opportunity to file a second amended complaint, and advised her that if she did not file a new pleading by November 13, 2009, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for filing a second amended complaint expired more than a month ago. To date, however, Plaintiff has not complied with the Court’s prior order, nor has she offered any excuse for her failure to do so. Indeed, Plaintiff has not communicated with the

Court at all since her case was transferred to this District more than two months ago. Therefore, the Court will now recommend, in accordance with the prior order, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Docket No. 1), be **DENIED**; and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: December 16, 2009

s/ Jeanne J. Graham

JEANNE J. GRAHAM

United States Magistrate Judge

NOTICE

Pursuant to D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing and serving specific, written objections by **December 31, 2009**. A party may respond to the objections within ten days after service thereof. Any objections or responses filed under this rule shall not exceed 3,500 words. A District Judge shall make a de novo determination of those portions to which objection is made. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the United States Court of Appeals for the Eighth Circuit.